

**AN ORDINANCE BY
PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE**

TO AMEND CHAPTER 10, ARTICLE I, SECTION 10-1 OF THE CODE OF ORDINANCES, CITY OF ATLANTA, GEORGIA, SO AS TO AMEND THE DEFINITION OF THE WORD "RESTAURANT" TO MORE CLOSELY REFLECT THE DEFINITION OF THE TERM "BONA FIDE FULL-SERVICE RESTAURANT" CONTAINED IN CHAPTER THREE OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta has an interest in maintaining the health, safety and welfare of the citizens of the City of Atlanta and its visitors; and

WHEREAS, the City of Atlanta has an interest in regulating, through the lawful exercise of its police powers, the sale of alcoholic beverages within its territorial limits; and

WHEREAS, to promote public safety and general welfare, the City of Atlanta has promulgated ordinances which regulate the sale of alcoholic beverages within the City of Atlanta found in Chapter 10 of the City of Atlanta Code of Ordinances; and

WHEREAS, the State of Georgia promulgated laws and regulations which govern the sale of alcoholic beverages within the State of Georgia found in Title 3 of the Official Code of Georgia Annotated (O.C.G.A.); and

WHEREAS, the City of Atlanta defines the word "Restaurant" in the City of Atlanta Code of Ordinances in Section 10-1 ; and

WHEREAS, the State of Georgia defines the term "bona fide full-service restaurant" in O.C.G.A. § 3-3-7(e)(2) as "an established place of business: (A) Which is licensed to sell alcoholic beverages, distilled spirits, malt beverages, or wines for consumption on the premises; (B) Where meals with substantial entrees selected by the patron from a full menu are served; (C) Which has adequate facilities and sufficient employees for cooking or preparing and serving such meals for consumption at tables in dining rooms on the premises; and (D) Which derives at least 50 percent of its gross income from the sale of such meals prepared, served, and consumed on the premises;" and

WHEREAS, the definition of the word "Restaurant" found in Atlanta City Code Section 10-1 does not reflect the definition of a "bona fide full-service restaurant" found in O.C.G.A. § 3-3-7(e)(2); and

WHEREAS, the City of Atlanta wishes to amend the definition of the word “Restaurant” found in Atlanta City Code Section 10-1 to more closely reflect the definition of a “bona fide full-service restaurant” found at O.C.G.A. § 3-3-7(e)(2).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

Section 1. That Section 10-1 of the Code of Ordinances of the City of Atlanta which currently reads as follows:

Sec. 10-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate parking means parking that meets the requirements of the Code.

Adequate parking for a nightclub means one (1) lawful parking space for each seventy-five (75) square feet of floor area within the licensed premises. Such parking space shall be exclusively available to the nightclub's patrons between the hours of 10:00 p.m. and 2:30 a.m. the following day on days on which alcoholic beverages may be lawfully sold for on premises consumption at a nightclub. Parking spaces on a street or within any part of the right-of-way shall not be included within this definition of adequate parking for a nightclub. The term "floor area" as used in this definition means, in addition to those areas defined in section 16-29.001(13)(b) of the Code, areas within the existing building footprint where the walls have been removed and a permanent roof remains.

Alcoholic beverages means and includes but is not limited to malt beverages, wine and distilled spirits.

Applicant means the person who files an application to obtain a license to sell alcoholic beverages and:

- (1) If a corporation, the chief executive officer, or some other person with written authority from the corporation to bind the corporation as to its business operations within the city;
- (2) If a partnership, the partner with the greatest proprietary interest;
- (3) If an individual, that individual;
- (4) If a firm or association, the person with the greatest proprietary interest.

Auditorium means a permanent building or hall used for concerts, speakers, plays and similar activities and that has a seating capacity in excess of 3,500.

Bar means an establishment having a minimum capacity of 25 persons and a maximum capacity of 100 persons per the City of Atlanta Fire Code that does not meet the definition of a restaurant, nightclub, lounge, farm winery, convention center, hotel, brewpub, open air cafe or sidewalk cafe, that is primarily devoted to selling and dispensing alcoholic beverages by the drink for on-premises consumption. The bar must make food available to its patrons.

Bottle house means any place of business open to the public or any private club which allows patrons or members to bring in and consume alcoholic beverages on the premises.

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the solely in draft form. As used herein, the term "eating premises and establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Broker means any person who purchases or obtains an alcoholic beverage from an importer, distillery, brewery, or winery and sells the alcoholic beverage to another broker, importer, or wholesaler without having custody of the alcoholic beverage or maintaining a stock of the alcoholic beverage.

Business area means any street length between intersections where 50 percent or more is in use for business purposes.

Church means a permanent building where persons regularly assemble for religious worship.

City food market means a retail grocery supermarket which (a) does not sell or offer for sale any of the following: gasoline, diesel fuel or tire, distilled spirits, tobacco products, lottery tickets or related games of chance or malt beverages by the keg; (b) does not provide for the on premises use of coin operated amusements; (c) maintains at all times that it is open to the public, an inventory of saleable food products, including meat, dairy, vegetable, fruit, dry goods and beverages, with a minimum, cumulative cost of goods sold of such food products of at least \$225,000.00; (d) has an interior floor area of at least 10,000 square feet and not more than 30,000 square feet, of which more than 50 percent of such interior floor area is devoted to the display for sale of food products; (e) employs not less than 50 employees who work at least 35 hours per week on the premises; and (f) derives less than 20 percent of its gross receipts from the sale of malt beverages and wine.

College means only state, county, city, church or other colleges that teach the subjects commonly taught in the common colleges of this state and does not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Continuing education center means any facility offering adult education which is operated by a unit of the University System of Georgia and which has housing facilities capable of accommodating 200 people and banquet facilities capable of serving 400 people. The sale of alcoholic beverages shall only be incidental to the principal business of a continuing education center licensed under this chapter.

Convention center means premises that are operated exclusively for the purpose of providing accommodations for conventions, trade shows and other similar activities, as well as some social events such as wedding receptions, bar mitzvahs, banquets and meetings. The facility must be available to public or private groups of persons for monetary consideration on a rental, fee, percentage or similar basis; be used primarily for special occasions, including but not limited to the events mentioned in this definition; be open to or attended by invited or selected guests or paying patrons; and the premises shall contain a minimum occupancy load of 200 persons for each show, event, reception or activity as permitted by the department of fire. The term "convention center" shall not include premises that provide adult entertainment, as that term is defined and used in part 16 of this Code, either regularly or occasionally, nor shall convention centers licensed to sell alcoholic beverages under this Code provide such adult entertainment on their licensed premises. All convention center licensees holding a valid city license for the sale of alcoholic beverages at the time of the enactment of the ordinance from which this amended definition derives (January 21, 1992) shall be deemed to have complied with all requirements for a convention center.

Distance means the measurement in linear feet from the front door of the structures from which alcoholic beverages are sold or offered for sale in a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route to the front door of the building or to the nearest portion of the ground, whichever is applicable. For the purposes of this chapter, distances shall be measured along the pedestrian route of travel to and from the premises.

Distilled spirits or spirituous liquors means all beverages containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines.

Domestic wine means any and all wines produced by a farm winery within this state.

Entertainment means the live performance by any person, whether such person be a musician, dancer or otherwise, which occurs upon the premises of a licensed establishment.

Family means and includes any person related to the holder of a license within the first degree of consanguinity or affinity, as determined according to civil law.

Farm winery means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries or

fruits to be utilized in the manufacture or production of wine by the winery, or a domestic winery which:

- (1) Makes at least 40 percent of its annual production from agricultural produce grown in this state;
- (2) Is owned and operated by persons who are engaged in the production of a substantial portion of the state agricultural produce used in its annual production, and for this purpose such production of a substantial portion of such state agricultural produce shall be determined by the state commissioner of revenue;
- (3) Produces less than 100,000 gallons per year; and
- (4) Has been certified and licensed as a farm winery by the state commissioner of revenue.

Government center means a building owned or leased by and operated by the state or the county and which contains a lobby or atrium area or other room which is used for group functions. The city is specifically excluded from this definition. If a license is issued for premises within a government center, a government official or employee shall be the named licensee. All government centers, while being used for the serving of alcoholic beverages, shall have posted the following sign visible to persons being served:

"No person may purchase and/or consume within a government center more than three regular servings of alcoholic beverages within a two-hour period. Violations of this ordinance shall be punishable by a fine of up to \$1,000.00 or imprisonment up to 30 days."

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of these guests, and having one or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least 40 where meals are regularly served to those guests, the sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub in their premises and the holder of the franchise shall be included in the definition of hotel.

Importer means any person who imports an alcoholic beverage into the State of Georgia from a foreign country and sells the alcoholic beverage to another importer, broker, or wholesaler and who maintains a stock of the alcoholic beverage.

License means the authorization by the council to engage in the sale or consumption of alcoholic beverages on the premises.

Licensee means a person, real or artificial, holding any class of license issued under this chapter.

Lounge means a separate room connected with a part of and adjacent to a restaurant or located in a hotel or located in any airport owned by the city, with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and shall have a seating capacity for at least 50 persons. However, lounges located in any airport owned or operated by the city shall be exempt from the seating capacity requirement. A lounge that is operated on a different floor in the premises or in a separate building or that is not connected to or adjacent to a restaurant shall be considered a separate establishment and an additional license fee shall be paid therefor.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Manufacturer means any maker, producer or bottler of an alcoholic beverage. The term also means:

- (1) For distilled spirits, any person engaged in distilling, rectifying or blending any distilled spirits;
- (2) For malt beverages, any brewer; and
- (3) For wine, any vintner.

Nightclub means an establishment having a capacity of at least 100 persons per the City of Atlanta Fire Code, with all booths and tables unobstructed and open to view, dispensing alcoholic beverages and in which music, dancing or entertainment is conducted. All such establishments shall be equipped with air conditioning. The principal business of a nightclub shall be entertaining, and the serving of alcoholic beverages shall be incidental thereto.

Open air cafe means an establishment which serves food during all hours of operation and which has a seating capacity of at least 40 and which is located within the pedestrian court area of a shopping and retail entertainment center. Such an establishment may be licensed for on-premises consumption only.

Outdoor dining area means a space in which a licensee serves food and beverages as part of the operation of the licensed premises as a sidewalk cafe. An outdoor dining area must be located directly in front of a licensed restaurant and may only be separated

from the licensee's premises by a sidewalk. No part of a sidewalk cafe shall be located within a public right-of-way. The width of an outdoor dining area shall not exceed the width of the licensed premises. An outdoor dining area shall contain no more than 50 percent of the premises' total seating capacity. The space within an outdoor dining area shall be enclosed within a clearly delineated area, which is surrounded by a continuous physical barrier no less than 36 inches and no more than 40 inches in height. An outdoor dining area shall have a single point of ingress and egress that is controlled by the licensee. Music and/or live entertainment shall not be provided within an outdoor dining area.

Package store means an establishment engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and whiskey for consumption off the premises and at which on-premises consumption is specifically prohibited, as distinct from a bar, restaurant or similar establishment which is licensed for the retail sale of alcoholic beverages of any type by the drink and/or for consumption on the premises. The term "package store" is considered synonymous with the term "liquor store". A package store shall include any premises classified as Industry No. 5921 in the Standard Industrial Classification (SIC) Manual 1972, prepared by the Executive Office of the President, Office of Management and Budget. The term "package store" shall not include a "wine specialty shop" and shall not include a city food market.

Park means any public lands owned or controlled and operated by the city, the state or any county of the state, in and upon which play facilities are provided for the recreation and enjoyment of the general public.

Pharmacy means any place of business of a pharmacist, which also sells cosmetics, stationary and other such products.

Premises means the definite closed or partitioned-in locality, whether room, shop or building, wherein alcoholic beverages are sold or consumed. Premises also includes any area or patio immediately adjacent to the main licensed facility and located on property owned or leased by such licensee. The area or patio need not be covered, but must be completely enclosed, except for entrances and exits, by a wall, fence, shrubbery or other decorative material no less than 30 inches in height. Premises of an open air cafe need not be completely partitioned, and patios attached to such an establishment must be enclosed, except for entrances and exits, by a wall, fence, shrubbery or other decorative material no less than 30 inches in height or by a body of water at least three feet wide and one foot deep or by some other architectural or landscaping barrier which would prevent access to the premises. Open air cafes shall be subject to all other requirements contained in this definition.

Private club means a corporation chartered, organized and existing under the laws of the state, exempt from federal income taxes pursuant to section 501(c) of the Internal Revenue Code, as amended, actively and continuously in operation within the city as a nonprofit corporation for at least one year immediately prior to the application for a license under this chapter and during which time such corporation shall have had continuously not less than 250 members whose names, current addresses and current

telephone numbers shall be kept listed on the club premises and made available for inspection on the premises by the Atlanta Police Department during all hours during which the private club is open for business, which members shall have regularly paid monthly, quarterly, semiannual or annual dues. In no event shall dues be paid on a daily basis. All applications for either a new or renewal license to sell alcoholic beverages by a private club for the year 2001 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent Form 990 Return of Organization Exempt From Income Tax as certified by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the past three years and shall make such documents available for inspection upon request by the Atlanta Police Department during all hours during which the private club is open for business. In the event that a corporation licensed as a private club for any given year loses its 501(c) exemption, such private club must inform the licenses and permits unit in writing of such change in status within 15 days of the change in status. The failure to provide in writing notification of such change in status within 15 days, in addition to the violation of any other provision of this chapter, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine of up to \$1,000.00 against the corporation. The corporation shall be operated exclusively for pleasure, recreation and other nonprofitable purposes, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of alcoholic beverages. No part of the net earnings of the corporation shall inure to the benefit of any member, director or officer. During the period of time prior to the time of application, the corporation shall have owned, hired or leased a building having kitchen and dining room space therein for the reasonable use of its members and shall have maintained sufficient personnel and equipment to prepare on the premises and serve hot meals, which hot meals shall have been served and shall continue to be served at least once per day at least six days per week. After an establishment has been granted private club status from the city, these requirements as to meal preparation, kitchen equipment and dining room facilities shall continue in effect. No member, director, officer, agent, or employee of the club shall be paid or directly or indirectly, receive, in the form of salary or other compensation, any profits from the sale of alcoholic beverages by or to the club or its members or guests, except such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club. The nonprofit corporation must be the sole owner and operator of the private club. Prior to the date of application, no nonprofit corporation shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the nonprofit entity or its assets (other than in the ordinary course of business), or the right to manage the private club in order to obtain its license to sell alcoholic beverages nor shall any nonprofit corporation transfer, during the time that the nonprofit corporation holds a license pursuant to this chapter, any such interest or right.

Private residence means a house or dwelling wherein not less than one or more than three families customarily reside and does not include a mobile home, an apartment house having facilities for housing more than four families, a boardinghouse or roominghouse where there are five or more boarders or roomers or any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application.

Restaurant means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 40 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. However, restaurants located in any airport owned or operated by the city shall be exempt from the seating capacity requirement. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations and periods of redecorating, and the serving of those meals shall be the principal business conducted, with the serving of distilled spirits to be consumed on the premises as only incidental thereto.

Retail grocery supermarket means any retail market or supermarket selling a full range of food products including meat, dairy, vegetable, fruit, dry goods and beverages.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public.

School means only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools of this state and does not include private schools where only specific subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Sexual orientation means the state of being heterosexual, homosexual or bisexual.

Shopping and retail entertainment center means a structure containing five or more retail establishments and three or more eating establishments, which has a court area for pedestrian use covered and enclosed on at least three sides. Such a court must extend vertically two or more floor levels and must constitute a minimum of 10,000 square feet. This definition shall also include single floor level shopping and retail entertainment centers which are completely enclosed and which meet all other requirements contained in this definition.

Sidewalk cafe means an establishment that serves food during all hours of operation, has a seating capacity of at least 30 people, operates an outdoor dining area, and is located within a mixed-use development (as that term is defined in section 16-29.001(24)) that has zoning approval for at least 50,000 square feet of retail space, 100,000 square feet of office space and 300 residential units. A sidewalk cafe shall not

provide any outdoor seating or any other outdoor service unless it is within an outdoor dining area. When interpreting the hours of operation listed in section 10-209(c) and 10-209(d) of this Code, sidewalk cafes shall be subject to the same limitations as restaurants. Sidewalk cafes must operate in compliance with the city's noise ordinance, found in chapter 74 of the City of Atlanta Code of Ordinances, and with section 10-60(a)(4)b.3.). [As provided for in section 10-109(a)(17)) of this part]

Sports coliseum means premises operated exclusively for the purpose of providing major league sporting events of basketball, hockey or similar athletic or amusement events for attendance by the public and where such premises contain a minimum of 3,000 square feet.

Suite hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where 50 or more suites, each consisting of at least one bedroom, a living room and a bathroom, are offered for adequate pay to travelers and guests, whether transient, permanent or residential, and where alcoholic beverages are served and the price of such beverages is included in the suite rates.

Tasting room means an outlet operated by a farm winery for the promotion of a farm winery's wine by providing complimentary samples of such wine to the public and for the sale of such wine at retail.

Wholesaler means any person engaged in distribution or selling of alcoholic beverages to retailers for the purpose of resale.

Wine or vinous liquors means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition of wine.

"Wine specialty shop" means a retail establishment:

- (1) Which shall deal in the sale of table wine, fortified wines, port, sherry for consumption off the premises and/or wine accessories; and at which on-premises consumption of alcoholic beverages is specifically prohibited, except that if a wine specialty shop is the holder of a license under Section 10-60(a)(1)(c) of this Code, that licensed retail establishment shall be authorized to hold wine tastings in conjunction with educational programs on the subjects of enology or viticulture.
- (2) Which shall not maintain on the premises or offer for sale malt beverages or distilled spirits;

- (3) Which shall maintain on the premises and offer for sale at all times a variety of wines from not less than 100 nor more than 200 manufacturers or importers of wine or any combination thereof the total of which shall not fall below 100 nor exceed 200;
- (4) Which shall maintain and replenish an inventory of at least 36 bottles of wine from each manufacturer or importer of wine referred to in subsection (3) above; provided however, that any inventory which is depleted to less than 36 bottles of wine must be replenished to at least 36 bottles of wine within 15 days of the date that the inventory falls below 36 bottles;
- (5) Which shall submit an inventory list of all wines maintained on the premises and offered for sale to the licenses and permits unit of the police department. Such inventory list shall be submitted to the licenses and permits unit on a quarterly basis by the first day of each of the following months: January, April, July and October; and
- (6) Whose total interior floor area, inclusive of storage area, shall not exceed 2,000 square feet.

be hereby amended to read as follows:

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate parking means parking that meets the requirements of the Code.

Adequate parking for a nightclub means one (1) lawful parking space for each seventy-five (75) square feet of floor area within the licensed premises. Such parking space shall be exclusively available to the nightclub's patrons between the hours of 10:00 p.m. and 2:30 a.m. the following day on days on which alcoholic beverages may be lawfully sold for on premises consumption at a nightclub. Parking spaces on a street or within any part of the right-of-way shall not be included within this definition of adequate parking for a nightclub. The term "floor area" as used in this definition means, in addition to those areas defined in section 16-29.001(13)(b) of the Code, areas within the existing building footprint where the walls have been removed and a permanent roof remains.

Alcoholic beverages means and includes but is not limited to malt beverages, wine and distilled spirits.

Applicant means the person who files an application to obtain a license to sell alcoholic beverages and:

- (1) If a corporation, the chief executive officer, or some other person with written authority from the corporation to bind the corporation as to its business operations within the city;

- (2) If a partnership, the partner with the greatest proprietary interest;
- (3) If an individual, that individual;
- (4) If a firm or association, the person with the greatest proprietary interest.

Auditorium means a permanent building or hall used for concerts, speakers, plays and similar activities and that has a seating capacity in excess of 3,500.

Bar means an establishment having a minimum capacity of 25 persons and a maximum capacity of 100 persons per the City of Atlanta Fire Code that does not meet the definition of a restaurant, nightclub, lounge, farm winery, convention center, hotel, brewpub, open air cafe or sidewalk cafe, that is primarily devoted to selling and dispensing alcoholic beverages by the drink for on-premises consumption. The bar must make food available to its patrons.

Bottle house means any place of business open to the public or any private club which allows patrons or members to bring in and consume alcoholic beverages on the premises.

Brewpub means any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36 for retail consumption on the solely in draft form. As used herein, the term "eating premises and establishment" means an establishment which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food.

Broker means any person who purchases or obtains an alcoholic beverage from an importer, distillery, brewery, or winery and sells the alcoholic beverage to another broker, importer, or wholesaler without having custody of the alcoholic beverage or maintaining a stock of the alcoholic beverage.

Business area means any street length between intersections where 50 percent or more is in use for business purposes.

Church means a permanent building where persons regularly assemble for religious worship.

City food market means a retail grocery supermarket which (a) does not sell or offer for sale any of the following: gasoline, diesel fuel or tire, distilled spirits, tobacco products, lottery tickets or related games of chance or malt beverages by the keg; (b) does not provide for the on premises use of coin operated amusements; (c) maintains at all times that it is open to the public, an inventory of saleable food products, including meat, dairy, vegetable, fruit, dry goods and beverages, with a minimum, cumulative cost of goods sold of such food products of at least \$225,000.00; (d) has an interior floor area of at least 10,000 square feet and not more than 30,000 square feet, of which more than 50 percent of such interior floor area is devoted to the display for sale of food products;

(e) employs not less than 50 employees who work at least 35 hours per week on the premises; and (f) derives less than 20 percent of its gross receipts from the sale of malt beverages and wine.

College means only state, county, city, church or other colleges that teach the subjects commonly taught in the common colleges of this state and does not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Continuing education center means any facility offering adult education which is operated by a unit of the University System of Georgia and which has housing facilities capable of accommodating 200 people and banquet facilities capable of serving 400 people. The sale of alcoholic beverages shall only be incidental to the principal business of a continuing education center licensed under this chapter.

Convention center means premises that are operated exclusively for the purpose of providing accommodations for conventions, trade shows and other similar activities, as well as some social events such as wedding receptions, bar mitzvahs, banquets and meetings. The facility must be available to public or private groups of persons for monetary consideration on a rental, fee, percentage or similar basis; be used primarily for special occasions, including but not limited to the events mentioned in this definition; be open to or attended by invited or selected guests or paying patrons; and the premises shall contain a minimum occupancy load of 200 persons for each show, event, reception or activity as permitted by the department of fire. The term "convention center" shall not include premises that provide adult entertainment, as that term is defined and used in part 16 of this Code, either regularly or occasionally, nor shall convention centers licensed to sell alcoholic beverages under this Code provide such adult entertainment on their licensed premises. All convention center licensees holding a valid city license for the sale of alcoholic beverages at the time of the enactment of the ordinance from which this amended definition derives (January 21, 1992) shall be deemed to have complied with all requirements for a convention center.

Distance means the measurement in linear feet from the front door of the structures from which alcoholic beverages are sold or offered for sale in a straight line to the nearest public sidewalk, walkway, street, road or highway by the nearest route to the front door of the building or to the nearest portion of the ground, whichever is applicable. For the purposes of this chapter, distances shall be measured along the pedestrian route of travel to and from the premises.

Distilled spirits or spirituous liquors means all beverages containing alcohol obtained by distillation or containing more than 21 percent alcohol by volume, including fortified wines.

Domestic wine means any and all wines produced by a farm winery within this state.

Entertainment means the live performance by any person, whether such person be a musician, dancer or otherwise, which occurs upon the premises of a licensed establishment.

Family means and includes any person related to the holder of a license within the first degree of consanguinity or affinity, as determined according to civil law.

Farm winery means a domestic winery located on premises, a substantial portion of which is used for agricultural purposes, including the cultivation of grapes, berries or fruits to be utilized in the manufacture or production of wine by the winery, or a domestic winery which:

- (1) Makes at least 40 percent of its annual production from agricultural produce grown in this state;
- (2) Is owned and operated by persons who are engaged in the production of a substantial portion of the state agricultural produce used in its annual production, and for this purpose such production of a substantial portion of such state agricultural produce shall be determined by the state commissioner of revenue;
- (3) Produces less than 100,000 gallons per year; and
- (4) Has been certified and licensed as a farm winery by the state commissioner of revenue.

Government center means a building owned or leased by and operated by the state or the county and which contains a lobby or atrium area or other room which is used for group functions. The city is specifically excluded from this definition. If a license is issued for premises within a government center, a government official or employee shall be the named licensee. All government centers, while being used for the serving of alcoholic beverages, shall have posted the following sign visible to persons being served:

"No person may purchase and/or consume within a government center more than three regular servings of alcoholic beverages within a two-hour period. Violations of this ordinance shall be punishable by a fine of up to \$1,000.00 or imprisonment up to 30 days."

Hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which 50 or more rooms are used for the sleeping accommodations of these guests, and having one or more public dining rooms, with an adequate and sanitary kitchen and a seating capacity of at least 40 where meals are regularly served to those guests, the sleeping accommodations and dining rooms being conducted in the same building or in separate buildings or structures used in connection therewith that are on the same premises and are a part of the hotel operation. Motels

meeting the qualifications set out in this definition for hotels shall be classified in the same category as hotels. Hotels shall have the privilege of granting franchises for the operation of a lounge, restaurant or nightclub in their premises and the holder of the franchise shall be included in the definition of hotel.

Importer means any person who imports an alcoholic beverage into the State of Georgia from a foreign country and sells the alcoholic beverage to another importer, broker, or wholesaler and who maintains a stock of the alcoholic beverage.

License means the authorization by the council to engage in the sale or consumption of alcoholic beverages on the premises.

Licensee means a person, real or artificial, holding any class of license issued under this chapter.

Lounge means a separate room connected with a part of and adjacent to a restaurant or located in a hotel or located in any airport owned by the city, with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and shall have a seating capacity for at least 50 persons. However, lounges located in any airport owned or operated by the city shall be exempt from the seating capacity requirement. A lounge that is operated on a different floor in the premises or in a separate building or that is not connected to or adjacent to a restaurant shall be considered a separate establishment and an additional license fee shall be paid therefor.

Malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product or any combination of such products in water, containing not more than six percent alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Manufacturer means any maker, producer or bottler of an alcoholic beverage. The term also means:

- (1) For distilled spirits, any person engaged in distilling, rectifying or blending any distilled spirits;
- (2) For malt beverages, any brewer; and
- (3) For wine, any vintner.

Nightclub means an establishment having a capacity of at least 100 persons per the City of Atlanta Fire Code, with all booths and tables unobstructed and open to view, dispensing alcoholic beverages and in which music, dancing or entertainment is conducted. All such establishments shall be equipped with air conditioning. The principal business of a nightclub shall be entertaining, and the serving of alcoholic beverages shall be incidental thereto.

Open air cafe means an establishment which serves food during all hours of operation and which has a seating capacity of at least 40 and which is located within the pedestrian court area of a shopping and retail entertainment center. Such an establishment may be licensed for on-premises consumption only.

Outdoor dining area means a space in which a licensee serves food and beverages as part of the operation of the licensed premises as a sidewalk cafe. An outdoor dining area must be located directly in front of a licensed restaurant and may only be separated from the licensee's premises by a sidewalk. No part of a sidewalk cafe shall be located within a public right-of-way. The width of an outdoor dining area shall not exceed the width of the licensed premises. An outdoor dining area shall contain no more than 50 percent of the premises' total seating capacity. The space within an outdoor dining area shall be enclosed within a clearly delineated area, which is surrounded by a continuous physical barrier no less than 36 inches and no more than 40 inches in height. An outdoor dining area shall have a single point of ingress and egress that is controlled by the licensee. Music and/or live entertainment shall not be provided within an outdoor dining area.

Package store means an establishment engaged in the retail sale of packaged alcoholic beverages, such as ale, beer, wine, and whiskey for consumption off the premises and at which on-premises consumption is specifically prohibited, as distinct from a bar, restaurant or similar establishment which is licensed for the retail sale of alcoholic beverages of any type by the drink and/or for consumption on the premises. The term "package store" is considered synonymous with the term "liquor store". A package store shall include any premises classified as Industry No. 5921 in the Standard Industrial Classification (SIC) Manual 1972, prepared by the Executive Office of the President, Office of Management and Budget. The term "package store" shall not include a "wine specialty shop" and shall not include a city food market.

Park means any public lands owned or controlled and operated by the city, the state or any county of the state, in and upon which play facilities are provided for the recreation and enjoyment of the general public.

Pharmacy means any place of business of a pharmacist, which also sells cosmetics, stationary and other such products.

Premises means the definite closed or partitioned-in locality, whether room, shop or building, wherein alcoholic beverages are sold or consumed. Premises also includes any area or patio immediately adjacent to the main licensed facility and located on property owned or leased by such licensee. The area or patio need not be covered, but must be completely enclosed, except for entrances and exits, by a wall, fence, shrubbery or other decorative material no less than 30 inches in height. Premises of an open air cafe need not be completely partitioned, and patios attached to such an establishment must be enclosed, except for entrances and exits, by a wall, fence, shrubbery or other decorative material no less than 30 inches in height or by a body of water at least three feet wide and one foot deep or by some other architectural or landscaping barrier which would

prevent access to the premises. Open air cafes shall be subject to all other requirements contained in this definition.

Private club means a corporation chartered, organized and existing under the laws of the state, exempt from federal income taxes pursuant to section 501(c) of the Internal Revenue Code, as amended, actively and continuously in operation within the city as a nonprofit corporation for at least one year immediately prior to the application for a license under this chapter and during which time such corporation shall have had continuously not less than 250 members whose names, current addresses and current telephone numbers shall be kept listed on the club premises and made available for inspection on the premises by the Atlanta Police Department during all hours during which the private club is open for business, which members shall have regularly paid monthly, quarterly, semiannual or annual dues. In no event shall dues be paid on a daily basis. All applications for either a new or renewal license to sell alcoholic beverages by a private club for the year 2001 and all years thereafter must be accompanied by proof from the Internal Revenue Service that the corporation seeking such license is deemed exempt from federal income taxes by the Internal Revenue Service at the time of application for the new or renewal license. In addition, the corporation shall be required to submit its most recent Form 990 Return of Organization Exempt From Income Tax as certified by a certified public accountant. Furthermore, the corporation shall maintain on its premises any additional federal and state income tax returns filed by the corporation within the past three years and shall make such documents available for inspection upon request by the Atlanta Police Department during all hours during which the private club is open for business. In the event that a corporation licensed as a private club for any given year loses its 501(c) exemption, such private club must inform the licenses and permits unit in writing of such change in status within 15 days of the change in status. The failure to provide in writing notification of such change in status within 15 days, in addition to the violation of any other provision of this chapter, shall be grounds for the denial, suspension or revocation of said license and/or the implementation of a fine of up to \$1,000.00 against the corporation. The corporation shall be operated exclusively for pleasure, recreation and other nonprofitable purposes, but in no event shall the corporation have as its primary purpose the operation of an establishment licensed for the sale of alcoholic beverages. No part of the net earnings of the corporation shall inure to the benefit of any member, director or officer. During the period of time prior to the time of application, the corporation shall have owned, hired or leased a building having kitchen and dining room space therein for the reasonable use of its members and shall have maintained sufficient personnel and equipment to prepare on the premises and serve hot meals, which hot meals shall have been served and shall continue to be served at least once per day at least six days per week. After an establishment has been granted private club status from the city, these requirements as to meal preparation, kitchen equipment and dining room facilities shall continue in effect. No member, director, officer, agent, or employee of the club shall be paid or directly or indirectly, receive, in the form of salary or other compensation, any profits from the sale of alcoholic beverages by or to the club or its members or guests, except such salary as may be fixed by its members at any annual meeting or by its governing board out of the general revenue of the club. The nonprofit corporation must be the sole

owner and operator of the private club. Prior to the date of application, no nonprofit corporation shall have transferred, either directly or indirectly, by sale, lease or otherwise, any ownership, or any interest in the nonprofit entity or its assets (other than in the ordinary course of business), or the right to manage the private club in order to obtain its license to sell alcoholic beverages nor shall any nonprofit corporation transfer, during the time that the nonprofit corporation holds a license pursuant to this chapter, any such interest or right.

Private residence means a house or dwelling wherein not less than one or more than three families customarily reside and does not include a mobile home, an apartment house having facilities for housing more than four families, a boardinghouse or roominghouse where there are five or more boarders or roomers or any residence which has been unoccupied for a period of six consecutive months immediately prior to the filing of an application.

***Restaurant* means any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, without sleeping accommodations, such place being provided with adequate and sanitary kitchen and dining room equipment and seating capacity of at least 40 people, having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days per week, with the exception of holidays, vacations and periods of redecorating, and the serving of those meals shall be the principal business conducted, with the serving of distilled spirits to be consumed on the premises as only incidental thereto; such place must derive at least 50 percent of its gross income from the sale of such meals prepared, served, and consumed on the premises. Restaurants located in any airport owned or operated by the city shall be exempt from the seating capacity requirement.**

Retail grocery supermarket means any retail market or supermarket selling a full range of food products including meat, dairy, vegetable, fruit, dry goods and beverages.

Retail sale means selling or offering for sale alcoholic beverages to any member of the public.

School means only such state, county, city, church or other schools as teach the subjects commonly taught in the common schools of this state and does not include private schools where only specific specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Sexual orientation means the state of being heterosexual, homosexual or bisexual.

Shopping and retail entertainment center means a structure containing five or more retail establishments and three or more eating establishments, which has a court area for pedestrian use covered and enclosed on at least three sides. Such a court must extend

vertically two or more floor levels and must constitute a minimum of 10,000 square feet. This definition shall also include single floor level shopping and retail entertainment centers which are completely enclosed and which meet all other requirements contained in this definition.

Sidewalk cafe means an establishment that serves food during all hours of operation, has a seating capacity of at least 30 people, operates an outdoor dining area, and is located within a mixed-use development (as that term is defined in section 16-29.001(24)) that has zoning approval for at least 50,000 square feet of retail space, 100,000 square feet of office space and 300 residential units. A sidewalk cafe shall not provide any outdoor seating or any other outdoor service unless it is within an outdoor dining area. When interpreting the hours of operation listed in section 10-209(c) and 10-209(d) of this Code, sidewalk cafes shall be subject to the same limitations as restaurants. Sidewalk cafes must operate in compliance with the city's noise ordinance, found in chapter 74 of the City of Atlanta Code of Ordinances, and with section 10-60(a)(4)b.3.). [As provided for in section 10-109(a)(17)) of this part]

Sports coliseum means premises operated exclusively for the purpose of providing major league sporting events of basketball, hockey or similar athletic or amusement events for attendance by the public and where such premises contain a minimum of 3,000 square feet.

Suite hotel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where 50 or more suites, each consisting of at least one bedroom, a living room and a bathroom, are offered for adequate pay to travelers and guests, whether transient, permanent or residential, and where alcoholic beverages are served and the price of such beverages is included in the suite rates.

Tasting room means an outlet operated by a farm winery for the promotion of a farm winery's wine by providing complimentary samples of such wine to the public and for the sale of such wine at retail.

Wholesaler means any person engaged in distribution or selling of alcoholic beverages to retailers for the purpose of resale.

Wine or vinous liquors means any alcoholic beverage containing not more than 21 percent alcohol by volume made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term includes but is not limited to all sparkling wines, champagnes, combinations of such beverages, vermouths, special natural wines, rectified wines and like products. The term does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to this definition of wine.

"Wine specialty shop" means a retail establishment:

(1) Which shall deal in the sale of table wine, fortified wines, port, sherry for consumption off the premises and/or wine accessories; and at which on-premises consumption of alcoholic beverages is specifically prohibited, except that if a wine specialty shop is the holder of a license under Section 10-60(a)(1)(c) of this Code, that licensed retail establishment shall be authorized to hold wine tastings in conjunction with educational programs on the subjects of enology or viticulture.

(2) Which shall not maintain on the premises or offer for sale malt beverages or distilled spirits;

(3) Which shall maintain on the premises and offer for sale at all times a variety of wines from not less than 100 nor more than 200 manufacturers or importers of wine or any combination thereof the total of which shall not fall below 100 nor exceed 200;

(4) Which shall maintain and replenish an inventory of at least 36 bottles of wine from each manufacturer or importer of wine referred to in subsection (3) above; provided however, that any inventory which is depleted to less than 36 bottles of wine must be replenished to at least 36 bottles of wine within 15 days of the date that the inventory falls below 36 bottles;

(5) Which shall submit an inventory list of all wines maintained on the premises and offered for sale to the licenses and permits unit of the police department. Such inventory list shall be submitted to the licenses and permits unit on a quarterly basis by the first day of each of the following months: January, April, July and October; and

(6) Whose total interior floor area, inclusive of storage area, shall not exceed 2,000 square feet.

Section 2. Should it be found that any ordinance or parts of any ordinance are in conflict herewith, then those sections contained herein shall be deemed controlling.

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE

ATTN: GREG PRIDGEON

Legislative Counsel (Signature): Investigator Kurt Braunsroth

Contact Number: (404) 853-4266

Originating Department: Department of Police

Committee(s) of Purview: Public Safety and Legal Administration

Council Deadline: 2 May 2008

Anticipated Committee Meeting Date(s): 13-14 May 2008

Anticipated Full Council Date: 19 May 2008

Commissioner Signature: D/C George N. Turner

Chief Procurement Officer Signature: _____

CAPTION

AN ORDINANCE BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE TO AMEND CHAPTER 10, ARTICLE I, SECTION 10-1 OF THE CODE OF ORDINANCES, CITY OF ATLANTA, GEORGIA, SO AS TO AMEND THE DEFINITION OF THE WORD "RESTAURANT" TO MORE CLOSELY REFLECT THE DEFINITION OF THE TERM "BONA FIDE FULL-SERVICE RESTAURANT" CONTAINED IN CHAPTER THREE OF THE OFFICIAL CODE OF GEORGIA ANNOTATED; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

FINANCIAL IMPACT (if any)

Mayor's Staff Only _____

Received by CPO: _____ (date) Received by LC from CPO: _____ (date)

Received by Mayor's Office: RCY 5/2/08 (date) Reviewed by: _____ (date)

Submitted to Council: _____ (date)